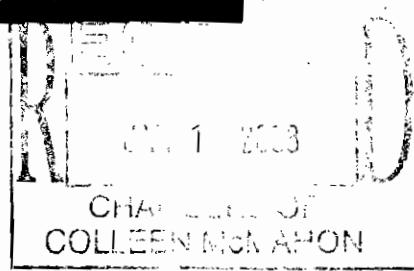


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MEMO ENDORSED

Date January 18, 2008 **Phone**
To Honorable Judge Colleen McMahon, 212 805 6325 **Fax**
Southern District Court, New York, New York
From James David Jacobs +1 212 891 3951
Client/Matter No. 56142904-000002 **DOC #:** +1 212 310 1651
Re Software AG, Inc. v. Consist Computer Solutions 08 CV 00389
Pages (w/cover) 3 **DATE FILED:** 1/18/08

Dear Judge McMahon:

Literally minutes after we faxed our letter to you we received the ~~enclosed letter from~~ counsel for Consist. We would like to speak to Your Honor this afternoon if possible. Defendants' unilateral attempts to determine what will and will not be heard next Thursday are prejudicing our ability to prepare for the hearing.

Respectfully,

James D. Jacobs

cc: Hyman L. Schaffer

1/18/2008
Other Consist complies with the
discovery requests or I will not only draw
adverse inferences, I will impose monetary
sanctions or counsel for unreasonably failing
the party & let them will not produce
the documents. Defendant* does not
control the content of the hearing
documents. Defendant will produce
documents. Colleen

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January 18, 2008

BY ELECTRONIC MAIL

James D. Jacobs, Esquire
Baker & McKenzie LLP
1114 Avenue of the Americas
New York NY 10036-7703

Re: Software AG, Inc. et al. v. Consist Software Solutions (08 Civ. 0389) (CM) (FM)

Dear Jim:

By now, I am sure you have read the letter I sent to Judge McMahon earlier today and reviewed the attachments. In light of Consist's immediate and voluntary efforts to address SAG's claim that the statements on the Brazilian website were literally false, we believe that the only possible matter that could be determined at Thursday's hearing is whether SAG could somehow be entitled to an order requiring a Brazilian court or the Brazilian trademark office to order cancellation of the Brazilian trademark registrations owned by our clients' affiliate in Brazil. It is our view that the Court clearly lacks jurisdiction to grant the relief SAG seeks and that, in any event, there is no need for emergency relief. Accordingly, we request that you agree to withdraw your clients' request for a preliminary injunction.

Since SAG no longer requires the Court to compel Consist to change the disclosure on the Brazilian website, expedited discovery should be limited accordingly. If you do not agree to withdraw your clients' request for a preliminary injunction, we therefore intend to provide and take expedited discovery only on the narrow trademark issue that SAG raised in its motion. To the extent that we have not already done so, we will produce today responsive documents in our clients' possession pertaining to this issue, including any registration materials and certificates for the trademarks. We will also stipulate to amend the confidentiality order entered into in the prior litigation to permit SAG to use any pertinent documents previously produced which are relevant to the current trademark issue. For this reason, we will not re-produce such materials in this action.

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Duane Morris

James D. Jacobs, Esquire
January 18, 2008
Page 2

With respect to depositions, the elimination of the false advertising claim makes it unnecessary to depose Mr. MacSwain or Mr. Daly. While we will proceed with the SAG 30(b)(6) deposition on January 22, we will confine the examination to the trademark issue.

Very truly yours,

Hyman Schaffer / SD
Hyman L. Schaffer

cc: Frank M. Gasparo, Esq.
Marcella Ballard, Esq.
John Basinger, Esq.